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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,769	06/11/1999	WAYNE E. BRETL	7081	9810

28574 7590 12/20/2005

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LINCOLNSHIRE, IL 60069

EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/330,769	Applicant(s) BRETLE ET AL.	
	Examiner Andy S. Rao	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/19/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11, 16, 17, 28, 29, 32, 37, 42, 46, 47, 56, 57, 59-62, 64, 70, 74, 75 and 81-88 is/are rejected.
- 7) ☒ Claim(s) 18, 19, 30, 31, 39, 48, 58, 66 and 76 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 2-10,12-15,20-27,33-36,38,40,41,43-45,47,49-55,63-69,71-73 and 77-80.

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed on 9/19/05 with to claims 1, 11, 16-17, 28-29, 32, 37, 42, 46-47, and 56-57 59-62, 64, 70, 74-75, 81-88 have been fully considered but they are not persuasive.
2. Claims 1, 11, 32, 37, 42, and 88 remain rejected under 35 U.S.C. 102(e) as being anticipated by Vancelette as was set forth in the Office Action of 6/16/05.
3. Claims 16, 17, 28, 29, 46, 47, 56, and 57 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Vancelette, as was set forth in the Office Action of 6/16/05.
4. Claims 59-62, 64, 70, 81-87 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Vancelette in view of Naimpally et al., (hereinafter referred to as "Naimpally"), as was set forth in the Office Action of 6/16/05.
5. Claims 74-75 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Vancelette in view of Naimpally, as was set forth in the Office Action of 6/16/05.
6. The Applicant presents five arguments contending the Examiner's rejection of claims 1, 11, 16-17, 28-29, 32, 37, 42, 46-47, and 56-57 59-62, 64, 70, 74-75, 81-88, as listed above and set forth in the Examiner's previous Office Action of 6/16/05. However, after a careful consideration of the arguments, the Examiner must respectfully disagree for the reasons that follow.

After providing a summary of primary Vancelette reference (Request for Reconsideration of 9/19/05: page 28, lines 1-23; page 29, lines 1-23; page 30, lines 1-23; page 31, lines 1-14), the Applicant argues with respect to claim 1, (Request for Reconsideration of 9/19/05: page 31, lines 15-23; page 32, lines 1-23; page 33, lines 1-19), claim 32 (Request for Reconsideration of

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9/19/05: page 33, lines 19-23; page 34, lines 1-23; page 35, lines 1-13), claim 88 (Request for Reconsideration of 9/19/05: page 35, lines 14-23; page 36, lines 1-23; page 37, lines 1-23; page 38, lines 1-6), that Vancelette fails to disclose an MPEG encoder and multiplexer combination that encodes frames with an on-screen display, as in the claims. The Examiner respectfully disagrees. It is noted that the flow of information between the encoder, mux, and operator interface inherently includes inputting the OSD information as a part of the control messages that are packetized and the OSD information is inherently sent there prior to encoding (Vancelette: column 6, lines 35-50). It is noted that the mux is operative to mux together packetized streams of channels A, B, and C as chosen by the operator by means of the interface (Vancelette: column 6, lines 15-25; figure 3, elements 310, 33, 350, and 370). If the OSD data were sent as information after packetization of the audio/video streams according to MPEG-2, the output of the transmitting apparatus could not be described as a "...packetized data stream..." (Vancelette: column 6, lines 60-67; column 7, lines 1-18). It would have been described as stream consisting of packetized data with OSD data interspersed therein. Additionally, it is noted that the Examiner's interpretation is sustained by the description of the decoder's functionality. In particular, it is noted that the OSD data as provided from the OSD processor is an input into the decompression processing block, wherein the OSD data is decompressed for output to the display (Vancelette: column 10, lines 20-40). If the OSD data were not encoded as alleged by the Applicant, there would be no need to provide said OSD data as an input into the decompression processing block since it would never have been encoded in the first place. The overlay could have been done after decompression. However, since the OSD data is input into the decompression processing block, one can only infer that such a step is undertaken because the

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OSD data was encoded, and needs to be decoded before being displayed. Accordingly, the Examiner maintains that the limitation is met.

Secondly, the Applicant argues that Vancelette fails to disclose that the MPEG encoder processes dynamic video frames by overlaying the OSD data display on the dynamic video frames (Request for Reconsideration of 9/19/05: page 38, lines 7-23; page 39, lines 1-13). The Examiner respectfully disagrees. Firstly, since Vancelette discloses using an MPEG encoder, it is operative on moving picture frames (i.e. dynamic video frames). As to the use of an overlay function, the Examiner notes that this is a sub-function of the generation of the composite video signal (Vancelette: column 10, lines 30-40: "overlay format"). Accordingly, the Examiner maintains that the limitation is met.

Additionally, the Applicant argues that Vancelette reference fails to disclose that the encoded frames have a time base, which is slaved to the original frames (Request for Reconsideration of 9/19/05: page 39, lines 14-23; page 40, lines 1-15). The Examiner respectfully disagrees. It is noted that time-multiplexing of the encoded would be based on the time characteristics of the originally presented frames, or a time base that is derived from a live video feed (Vancelette: column 5, lines 20-25). Accordingly, the Examiner maintains that this limitation is met.

Furthermore, the Applicant argues that Vancelette fails to disclose "...encoding I frames with the on-screen display as in the claims..." (Request for Reconsideration of 9/19/05: page 40, lines 16-23; page 42, lines 1-11). The Examiner respectfully disagrees. Since the Examiner has already maintained that Vancelette does sufficiently disclose MPEG encoding of frames with an on-screen display, the encoding of certain frames such as I frames or P frames as in the claims

would be an obvious extension of the application of MPEG. MPEG is known to use three types of frames for encoding: I, P, and B frames. Accordingly, the Examiner maintains that this limitation is met by the Vancelette reference.

Lastly, after providing a summary of the secondary Naimpally reference (Request for Reconsideration of 9/19/05; page 41, lines 12-23), the Applicant argues that the Naimpally reference fails to disclose the MPEG encoding of frames with an on-screen display (Request for Reconsideration of 9/19/05: page 42, lines 1-23; page 43, lines 1-23; page 44, lines 1-23; page 45, lines 1-7). The Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, since Vancelette has been shown to address the feature in question, there is no need for the secondary Naimpally reference to also do so.

Allowable Subject Matter

7. Claims 18-19, 30-31, 39, 48, 58, 66, and 76 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These dependent claims all recite the step for "...supplying first and second I frame markers..." which are not anticipated nor obvious over the art of record. Accordingly, if these claims are amended as indicated above, and the finally rejected claims 1, 11, 16-17, 28-29, 32,

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37, 42, 46-47, 56-57 59-62, 64, 70, 74-75, and 81-83 are canceled, the application would be placed in a condition for allowance.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (703)-305-4813. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (703)-305-4856. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-6606 for regular communications and (703)-308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-4700.

Andy S. Rao
Primary Examiner
Art Unit 2613

asr
December 15, 2005

ANDY RAO
PRIMARY EXAMINER

